

COORDINATION AMENDMENTS TO HB119

Amendment to HB 119 Third Reading Copy  
Requested by American Insurance Association, AFLAC, and American  
Council of Life Insurers  
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COORDINATION SECTION. Section \_\_\_\_. If House Bill No. 123 is passed and approved and if it includes a section repealing 2-6-102 and a section enacting [Section 2], then [Section 8] of this a act must be amended as follows:

"NEW SECTION. Section 8. Confidentiality. (1) Information provided or developed under [sections 1 through 9] for an own risk and solvency assessment or ORSA summary report and in the possession of or control of the commissioner or any other person UNDER [SECTIONS 1 THROUGH 9] is confidential and must be treated as RECOGNIZED AS PROPRIETARY AND containing trade secrets, as defined in 30-14-402. As a trade secret the THE information is CONFIDENTIAL BY LAW PUBLIC INFORMATION AS PROVIDED IN [SECTION 2 OF HB NO. 123] AND privileged, not admissible as evidence in any civil action, and not subject to subpoena, discovery, THE PROVISIONS OF 2-6-102, or THE PROVISIONS OF the Freedom of Information Act, 5 U.S.C. 552.

. . . .

(8) INFORMATION IN THE POSSESSION OF OR CONTROL OF THE NAIC OR A THIRD-PARTY CONSULTANT PURSUANT TO [SECTIONS 1 THROUGH 9] IS CONFIDENTIAL BY LAW PUBLIC INFORMATION AS PROVIDED IN [SECTION 2 OF HB NO. 123] AND PRIVILEGED, IS NOT ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION, AND IS NOT SUBJECT TO 2-6-102, SUBPOENA, OR DISCOVERY."

COORDINATION SECTION. Section \_\_\_\_. If House Bill No. 123 is passed and approved and if it includes a section repealing 2-6-102 and a section enacting [Section 2], then [Section 15] of this a act must be amended as follows:

"NEW SECTION. Section 15. Confidentiality -- definitions.

(1) Except as provided in ~~subsections (2), (4), and (5)~~ SUBSECTION (9), a company's confidential information is **CONFIDENTIAL PUBLIC INFORMATION AS PROVIDED IN [SECTION 2 OF HB NO. 123]**, IS confidential and privileged, and is not subject to subpoena, discovery, ~~or public information requests under 2-6-102~~ or admissible in evidence in any private civil action. . . ."

COORDINATION SECTION. Section \_\_\_\_. If House Bill No. 123 is passed and approved and if it includes a section repealing 2-6-102 and a section enacting [Section 2], then [Section 31] of this act must be amended as follows:

**"Section 31.** Section 33-2-1116, MCA, is amended to read:

. . . .  
~~\_\_\_\_\_ (4) The commissioner may enter into agreements governing sharing and use of confidential information consistent with subsection (3).~~ (1) DOCUMENTS, MATERIALS, AND OTHER INFORMATION IN THE POSSESSION OR CONTROL OF THE COMMISSIONER THAT ARE OBTAINED BY OR DISCLOSED TO THE COMMISSIONER OR ANY OTHER PERSON IN THE COURSE OF AN EXAMINATION OR INVESTIGATION MADE PURSUANT TO 33-2-1115 AND ALL INFORMATION REPORTED PURSUANT TO 33-2-1104(3)(L), 33-2-1104(3)(M), 33-2-1111, AND 33-2-1113 **MUST BE CONFIDENTIAL BY LAW ARE CONFIDENTIAL PUBLIC INFORMATION AS PROVIDED IN [SECTION 2 OF HB NO. 123]** AND PRIVILEGED, ARE NOT SUBJECT TO ~~2-6-102,~~ SUBPOENA, OR DISCOVERY, AND ARE NOT ADMISSIBLE IN EVIDENCE IN ANY PRIVATE CIVIL ACTION. THE COMMISSIONER IS AUTHORIZED TO USE THE DOCUMENTS, MATERIALS, AND OTHER INFORMATION TO FURTHER ANY REGULATORY OR LEGAL ACTION BROUGHT AS A PART OF THE COMMISSIONER'S OFFICIAL DUTIES. THE COMMISSIONER MAY NOT OTHERWISE MAKE THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION PUBLIC WITHOUT THE PRIOR WRITTEN CONSENT OF THE INSURER TO WHICH THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION

PERTAINS UNLESS THE COMMISSIONER, AFTER GIVING NOTICE AND AN OPPORTUNITY TO BE HEARD TO THE INSURER AND THE INSURER'S AFFILIATES WHO WOULD BE AFFECTED, DETERMINES THAT THE INTEREST OF POLICYHOLDERS, SHAREHOLDERS, OR THE PUBLIC WOULD BE SERVED BY THE PUBLICATION. ON A DETERMINATION THAT THE INTEREST OF POLICYHOLDERS, SHAREHOLDERS, OR THE PUBLIC WOULD BE SERVED, THE COMMISSIONER MAY PUBLISH ALL OR ANY PART OF THE DOCUMENTS, MATERIALS, OR OTHER INFORMATION IN A MANNER THAT THE COMMISSIONER CONSIDERS APPROPRIATE.

. . . .

(7) DOCUMENTS, MATERIALS, AND OTHER INFORMATION IN THE POSSESSION OR CONTROL OF THE NAIC PURSUANT TO [SECTIONS 10 THROUGH 16], 33-2-521 THROUGH 33-2-529, 33-2-531, 33-2-537, AND THIS SECTION ARE CONFIDENTIAL ~~BY LAW~~ PUBLIC INFORMATION AS PROVIDED IN [SECTION 2 OF HB NO. 123] AND PRIVILEGED, ARE NOT ADMISSIBLE IN EVIDENCE IN A PRIVATE CIVIL ACTION, AND ARE NOT SUBJECT TO ~~2-6-102,~~ SUBPOENA, OR DISCOVERY."